APPENDIX A — FEDERAL RULES INVOLVED

FEDERAL RULES OF CIVIL PROCEDURE

Rule 12(b)(6)

Rule 12. Defenses and Objections — When and How Presented — By Pleading or Motion — Motion for Judgment on Pleadings

* * *

(b) How Presented. . . . the following defenses may at the option of the pleader be made by motion:

* * *

(6) failure to state a claim upon which relief can be granted,

* * *

Appendix A

Rule 8

Rule 8. General Rules of Pleading

(a) Claims for Relief. A pleading which sets forth a claim for relief, whether an original claim, counterclaim, cross-claim, or third-party claim, shall contain (1) a short and plain statement of the grounds upon which the court's jurisdiction depends, unless the court already has jurisdiction and the claim needs no new grounds of jurisdiction to support it, (2) a short and plain statement of the claim showing that the pleader is entitled to relief, and (3) a demand for judgment for the relief the pleader seeks. Relief in the alternative or of several different types may be demanded.

* * *

(e) Pleading to be Concise and Direct; Consistency.

(1) Each averment of a pleading shall be simple, concise, and direct. No technical forms of pleading or motions are required.

(2) A party may set forth two or more statements of a claim or defense alternately or hypothetically, either in one count or defense or in separate counts or defenses. When two or more statements are made in the alternative and one of them if made independently would be sufficient, the pleading is not made insufficient by the insufficiency of one or more of the

alternative statements. A party may also state as many separate claims or defenses as the party has regardless of consistency and whether based on legal, equitable, or maritime grounds. All statements shall be made subject to the obligations set forth in Rule 11.

(f) Construction of Pleadings. All pleadings shall be so construed as to do substantial justice.

(As amended Feb. 28, 1966, eff. July 1, 1966; Mar. 2, 1987, eff. Aug. 1, 1987.)

APPENDIX B — BRIEF FOR APPELLEES DONALD J. TRUMP, MARLA MAPLES TRUMP, THE TRUMP ORGANIZATION, JANIE ELDER, RICHARD FIELDS, ANN OGLETREE, MATTHEW CALAMARI, DOMENIC PEZZO, MICHAEL BERGER AND JAY GOLDBERG IN THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT DATED JANUARY 15, 1998

[Omitted here but submitted separately as Lodging Appendix]